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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/915,091	07/25/2001	Timothy M. Schmidl	TI-31670	5570
23494	7590	06/01/2010	EXAMINER	
TEXAS INSTRUMENTS INCORPORATED P O BOX 655474, M/S 3999 DALLAS, TX 75265			DANIEL JR, WILLIE J	
			ART UNIT	PAPER NUMBER
			2617	
			NOTIFICATION DATE	DELIVERY MODE
			06/01/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspto@ti.com

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/915,091	Applicant(s) SCHMIDL ET AL.	
	Examiner WILLIE J. DANIEL JR	Art Unit 2617	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 May 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) The period for reply expires 3 months from the mailing date of the final rejection.
- b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) They raise the issue of new matter (see NOTE below);
- (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. Applicant's reply has overcome the following rejection(s): _____.
6. Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: NONE.
 Claim(s) objected to: NONE.
 Claim(s) rejected: 37-42.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. Other: _____.

/Charles N. Appiah/
 Supervisory Patent Examiner, Art Unit 2617

Continuation of 11. does NOT place the application in condition for allowance because:

1. Applicant's arguments filed 12 May 2010 have been fully considered but they are not persuasive. The Examiner respectfully disagrees with applicant's arguments as the applied reference(s) provide more than adequate support and to further clarify (see the comments in this section and Final Action mailed on 10 March 2010).

2. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "...summing the interference detected in each of the channels of the first system..." - see pg. 7, 2nd full par.) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Regarding applicant's argument of claim(s) 37 (see above), the applicant's argument relies on a feature(s) not recited in the claim(s).

3. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Regarding applicant's argument of claim 37 in the par. bridging pgs. 7-8, "...no disclosure...selecting one or another wide band channel for wireless communication between devices based on the summed observations of each wide band channel...", the Examiner respectfully disagrees. Applicant has failed to interpret and appreciate the combined teachings of well-known prior art Berg and Salonaho that clearly discloses the claimed feature(s) as would be clearly recognized by one of ordinary skill in the art. In particular, Berg discloses the language as related to the claimed feature(s) selecting the one or the other wide band channel for wireless communication between devices based on the summed observations of each wide band channel (see abstract; col. 3, lines 1-6, 11-17; col. 5, lines 8-12; col. 5, line 52 - col. 6, line 2; col. 9, lines 9-30; col. 12, lines 41-60; Figs. 2, 4, 7-9, & 11-13), where the bandwidth (e.g., 1 MHz & 5 MHz) of the at least one available frequency band is selected, if deemed acceptable, to form, by itself or in combination with other acceptable available frequency bands, the at least one frequency band for the desired communication (see col. 7, lines 19-32; col. 8, lines 50-56; col. 9, lines 1-30; Fig. 7). As further support in the same field of endeavor, Salonaho discloses the language as related to the claimed feature(s) summing the observations (see col. 3, lines 38-54; col. 4, lines 9-14; col. 1, lines 34-38). Therefore, the combination(s) of the reference(s) Berg and Salonaho as addressed above more than adequately meets the claim limitations.

4. Regarding applicant's argument(s) of claims 38-42, the claims are addressed for the same reasons as set forth above and as applied in each claim rejection of the Final Action.